IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2776 OF 2004.

Prakash Hirachand Dugad. ... Petitioner
Versus.
Municipal Corporation of
Greater Mumbai and ors. ... Respondents.

WRIT PETITION NO. 2838 OF 2004

Prakash Hiranchand Dugad. ... Petitioner.
Versus.
Municipal Corporation of
Greater Mumbai and ors. ... Respondents.

WRIT PETITION NO. 2863 OF 2004.

Prakash Hiranchand Dugad. ... Petitioner.
Versus.
Municipal Corporation of
Greater Mumbai and ors. ... Respondents.

Shri N.R.Bubna for the Petitioner.

Ms.Aruna Savla for the Respondents.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 30th JANUARY, 2006.

P.C.:

1. Heard Shri Bubna in support of these petitions. Ms.Savla appears for Respondents nos.1 to 6. The grievance of the Petitioner in all these matters is that Respondent No.7 has put up a mezzanine floor inside the premises which are tenanted to him. It is not stated in the petition as to when this construction allegedly come up. What we find is that on the Petitioners writing to the Municipal authorities, a reply has been given in

September 2003 pointing out that these are not mezzanine floors but lofts. It is also stated that the lofts do not appears to be of recent make. The Corporation has, therefore, declined to take any action as desired by the Petitioners to remove the same.

2. In our view, the Petitioner will have to file a suit for eviction or for removal of those lofts. The writ petition is not a proper remedy because disputed questions of facts are involved, which cannot be decided in a writ petition. The petitions are dismissed.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)